

# WINERIES Bonny Doon winery owner sues county planning director

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SANTA CRUZ — The owner of a Bonny Doon winery has filed a \$500,000 lawsuit against the county's top planning official, alleging that her actions are driving him out of business.

Alan Graham, owner of Bonny Doon Vineyards, says in a suit filed in Superior Court on Dec. 31 that land-use determinations by Dianne Guzman, the Santa Cruz County Planning Director, and 43 unnamed others in the department are ruining his "vested right" to operate his nationally known wine business.

In early October of last year, Guzman, in response to a neighbor's complaint, ruled that buildings, equipment and storage tanks on the Bonny Doon Winery property violated the county's Riparian Corridor and Wetlands Protection Ordinance, and ordered Graham to remove them.

"The facilities she ordered removed are essential to the operation of the winery and without (them) the plaintiff will be forced out of business," says the suit.

"The decision could be economically devastating to the winery," said Kent Washburn, attorney for Graham. "We believe the Planning Department took a much more restrictive approach to the situation than the law allows."

Graham contends he is exempt from the ordinance because the property was being similarly used

when he purchased it nearly 10 years ago. Previously, the winery was the site of the now-defunct Lost Weekend saloon. The Planning Department says those prior uses of the property "commenced following the 1977 adoption of the ordinance and (are) therefore illegal."

Graham's suit says that "according to county code, the Planning Director was required to hold a hearing, take evidence and determine facts" before taking action against Graham. Instead, the suit maintains, the hearing was "held by a third party, (planner) Pete Parkinson, who received evidence from both plaintiff and the complaining neighbor" and reported back to Guzman.

Guzman then, according to the lawsuit, ruled that the winery was in violation of county law "without hearing the witnesses or examining the evidence herself."

Guzman, in a letter to Mitchell Page, Graham's attorney, said the heart of the issue is whether "various facilities located in the riparian corridor can be considered exempt from the requirements of the county's Riparian Corridor and Protection Ordinance." Her conclusion was the facilities were not exempt, and not appealable.

"The ordinance does not specify an appeal process for consideration of an exemption. Consequently, the decision is not appealable," Guzman wrote.

Graham is seeking that Guzman's decision be ruled invalid because, among other things, "the findings do not support the decision made; the evidence does not support the findings; no record was kept of the administrative hearing; testimony and evidence was not heard or evaluated by Guzman herself"; and "the hearing was in excess of (Guzman's) jurisdiction."

Guzman's ruling, the suit says, was made with "the knowledge that the law did not provide for such proceedings and, with the intention to harass and maliciously injure (Graham) and drive him from producing wine on the property or anywhere in Bonny Doon.

The lawsuit is seeking \$500,000 in compensative damages. It is also seeking that the Planning Department ruling be overturned. Graham lives in Los Angeles; his son Randall oversees day-to-day operation of the winery.